

WC:EW
F. #2009R00713

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ SEP 11 2009 ★

BROOKLYN OFFICE
SUPERVISING
INDICTMENT

----- X
UNITED STATES OF AMERICA

- against -

DANIEL FAILE,
also known as "towns"
and "townsmen,"
DMITRY KICHATOV,
also known as "sj,"
"dantes" and "spam,"
DANIEL KIM,
also known as "kyudo," and
TIMOTHY CAMPBELL,
also known as "god,"

Cr. No. 09-219(S-1)(ILG)
(T. 18, U.S.C., §§ 371,
981(a)(1)(C) and 3551 et
seq.; T. 21, U.S.C.,
§ 853(p); T. 28, U.S.C.,
§ 2461(c))

Defendants.

----- X
THE GRAND JURY CHARGES:

CONSPIRACY TO COMMIT COPYRIGHT INFRINGEMENT

1. On or about and between June 1, 2001 and April 21, 2004, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DANIEL FAILE, also known as "towns" and "townsmen," DMITRI KICHATOV, also known as "sj," "dantes" and "spam," DANIEL KIM, also known as "kyudo," and TIMOTHY CAMPBELL, also known as "god," together with others, did knowingly and intentionally conspire to willfully infringe a copyright for purposes of commercial advantage and private financial gain and by the reproduction and distribution, including by electronic means, during a 180-day

period of at least ten copies of one or more copyrighted works having a total retail value of more than \$2,500, in violation of Title 17, United States Code, Section 506(a)(1) and Title 18, United States Code, Sections 2319(b)(1) and 2319(c)(1).

2. In furtherance of the conspiracy and to effect the objectives thereof, within the Eastern District of New York and elsewhere, the defendants DANIEL FAILE, also known as "towns" and "townsmen," DMITRI KICHATOV, also known as "sj," "dantes" and "spam," DANIEL KIM, also known as "kyudo," and TIMOTHY CAMPBELL, also known as "god," together with others, committed and caused the commission of, among others, the following:

OVERT ACTS

a. In or about May 2003, a co-conspirator known to the Grand Jury constructed a File Transfer Protocol ("FTP") server called "DOH" in Flushing, New York.

b. On or about March 2, 2004, DANIEL FAILE uploaded computer files bearing the title "Microsoft.Windows.XP.64.Bit.SP1.Integrated.For.64.Bit.extE.Systems-TBE," the name of a copyrighted software program, to the FTP server DOH.

c. On or about March 12, 2004, DMITRI KICHATOV downloaded computer files bearing the title "MVP.Baseball.2004.CD2.Clone-Cyclone," the name of a copyrighted computer game, from the FTP server DOH.

d. On or about March 21, 2004, DANIEL KIM downloaded computer files bearing the title "Kill.Bill.Volume1.DVDR-Replica," the name of a copyrighted movie, from the FTP server DOH.

e. On or about March 21, 2004, TIMOTHY CAMPBELL downloaded computer files bearing the title "Lords_Of_The_Realm_III-Razor1911," the name of a copyrighted computer game, from the FTP server DOH.

f. On or about and between May 20, 2003 and April 21, 2004, both dates being approximate and inclusive, co-conspirators known to the Grand Jury kept the FTP server DOH connected to the Internet specifically for the purpose of receiving, storing and distributing copyrighted works, including business software, computer games and movies. Only those granted access to the FTP server DOH were able to upload or download the computer files contained thereon.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION

3. The United States hereby gives notice to the defendants that, upon conviction of the offense charged, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted

of such offense to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offense.

4. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

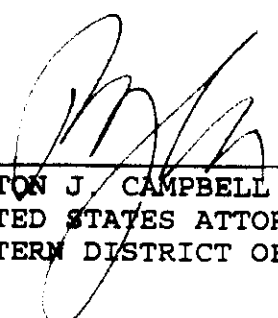
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any

other property of such defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL


FOREPERSON


BENTON J. CAMPBELL
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

No. _____ Action: _____

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

CRIMINAL Division

THE UNITED STATES OF AMERICA

vs.

DANIEL FAILE, DMITRY KICHATOV, DANIEL KIM, & TIMOTHY CAMPBELL,
Defendants.

INDICTMENT

(T. 18, U.S.C., §§ 371, 981(a)(1)(C) and 3551 et seq.;
T. 21, U.S.C. § 853(p); T. 28, U.S.C. § 2461(c))

A true bill

Tara Swaminatha

Foreman

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

Tara Swaminatha, Trial Attorney, U.S. Dept. Of Justice [(202) 307-3882]

INFORMATION SHEET

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

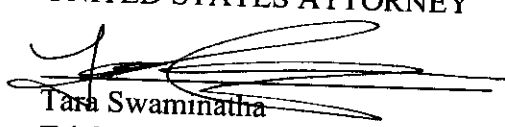
09CR219(S-1)
ILG

1. Title of Case: **United States v. Daniel Faile, Dmitry Kichatov, Daniel Kim & Timothy Campbell**
2. Related Magistrate Docket Number(s):
None (X)
3. Arrest Dates: Daniel Faile (6/11/09), Dmitry Kichatov (6/16/09), Daniel Kim (6/18/09), Timothy Campbell (6/18/09)
4. Nature of offense(s): ☒ Felony
☐ Misdemeanor
5. Related Cases - Title and Docket No(s). (Pursuant to Rule 50.3 of the Local E.D.N.Y. Division of Business Rules):

6. Projected Length of Trial: Less than 6 weeks (X)
More than 6 weeks ()
7. County in which crime was allegedly committed: Queens
(Pursuant to Rule 50.1(d) of the Local E.D.N.Y. Division of Business Rules)
8. Has this indictment/information been ordered sealed? () Yes (X) No
9. Have arrest warrants been ordered? () Yes (X) No
10. Is a capital count included in the indictment? () Yes (X) No

BENTON J. CAMPBELL
UNITED STATES ATTORNEY

By:


Tara Swaminatha

Trial Attorney

U.S. Department of Justice

(202) 307-3882